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IN THE

SUPREME COURT OF THE UNITED STATES.

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OCTOBER TERM, 1967.

HANSEL WALLACE,
Petitioner,

vs.

COMMONWEALTH OF VIRGINIA,
Respondent.

On Petition for Certiorari to the Supreme Court of Appeals for the Commonwealth of Virginia and the Corporation Court of Bristol, Virginia.

PETITION FOR A WRIT OF CERTIORARI.

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I.

SUMMARY STATEMENT OF THE MATTER INVOLVED.

Hansel Wallace, your petitioner, was convicted of illegal picketing in the Corporation Court for Bristol, Virginia, sentenced to a fine of $300.00 and a jail sentence for six months.

The proof of your petitioner's alleged illegal picketing showed that he held a sign directly in front of his chest while standing off of the pavement of a road in the area of a strike in Bristol, Virginia. The sign read, "Tate, we will remember you."

The proof affirmatively shows that petitioner did nothing else, and that he did not obstruct pedestrian or vehicular traffic. He held the sign for approximately 20 seconds.

The conviction was based solely upon the exhibiting of this sign, the Virginia court holding that this language in and of itself constituted threatening language under the terms of their statute.

Your petitioner has pursued his remedy of appeal to the Supreme Court of Appeals of Virginia, which Court affirmed the judgment of the lower court by an order dated October 10, 1967.

II.

JURISDICTION.

The jurisdiction of this court is invoked under the Constitution of the United States.

Amendment I:

"Congress shall make no law respecting establishment of religion or prohibiting free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition the government for a redress of grievances."

Fourteenth Amendment:

"No state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within this jurisdiction equal protection of the laws."

III.

THE QUESTION.

The question presented is whether the Commonwealth of Virginia has denied Hansel Wallace his right of freedom of speech and due process through his conviction for illegal picketing under proof which showed only that he held a sign reading, "Tate, we will remember you", and absent any other proof of criminal conduct.

IV.

STATUTES AND REGULATIONS INVOLVED.

Virginia Code.

§ 40-64. Preventing persons from pursuing lawful vocations, etc.; illegal picketing; injunction.—No person shall singly or in concert with others interfere or attempt to interfere with another in the exercise of his right to work or to enter upon the performance of any lawful vocation by the use of force, threats of violence or intimidation, or by the use of insulting or threatening language directed toward such person, to induce or attempt to induce him to quit his employment or refrain from seeking employment.

No person shall engage in picketing by force or violence, or picket alone or in concert with others in such manner as to obstruct or interfere with free ingress or egress to and from any premises, or obstruct or interfere with free use of public streets, sidewalks or other public ways.

When a strike or lockout is in progress, no person who is not, or immediately prior to the time of the commencement of any strike or lockout was not, a bona fide employee of the business or industry being

picketed shall participate in any picketing or any picketing activitiy with respect to such strike or lockout.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and punished accordingly.

Notwithstanding the punishments herein provided any court of general equity jurisdiction may enjoin picketing prohibited by this section, and in addition thereto, may enjoin any picketing or interference with lawful picketing when necessary to prevent disorder, restrain coercion, protect life or property, or promote the general welfare."

V.

REASONS RELIED ON FOR ALLOWANCE OF THE WRIT AND SPECIFICATIONS OF ERROR.

1. The holding of the Supreme Court of Appeals of the Commonwealth of Virginia is in direct conflict with the rulings and decisions of this court, and more particularly **Cafeteria Employees Union, Local 302 v. Angelos**, 320 U. S. 293, 64 Supreme Court 126, 88 Lawyers Edition 58; **Leland Bus v. Locals 406, 406-A, 406-B, and 406-C, National Union of Operating Engineers AFL-CIO**, DC, La. 1956, 145 Fed. Sup. 316; **Printing Specialties & Paper Convertors Union, Local 388, AFL v. LeBaron**, C. A. California 1949, 171 Fed. 2d 331, Certiorari Dismissed, 69 Supreme Court 884, 336 U. S. 949, 93 Lawyers Edition 1105.

VI.

ARGUMENT.

The conviction of Hansel Wallace in the State Court was based solely upon his exhibiting a sign in a place where he had a right to be. The sign read, "Tate, we will remember you". Wallace held the sign for approximately 20 seconds. Tate was a fellow employee who had been exhibiting obscene gestures toward the picketing employees as he drove by. Upon seeing the sign held by Wallace, Tate cut a dip at Wallace with his truck and struck the sign with a sideview mirror. The police witnessing the event immediately arrested Tate for assault with a vehicle and Wallace was asked to appear as a witness against him. When Wallace appeared as a witness, he was served with a State Warrant and charged with illegal picketing. The case against Tate was dismissed and the charge against Wallace sustained by conviction, a $300 fine and a six months jail sentence.

The conviction denied Wallace his right of freedom of speech and due process under the Federal Constitution.

The language of the sign was not such that would be reasonably calculated to cause a "breach of the peace", nor was it such as to be "fighting words", but was more of an indefinite meaning or undefined slogan as in the case of **Cafeteria Employees Union, Local 302 v. Angelos**, 320 U. S. 293, 64 Supreme Court 126, 88 Lawyers Edition 58, wherein this court held that loose language and undefined slogans could not in themselves be the basis for an injunction for illegal picketing.

The holding of the Supreme Court of Appeals for the Commonwealth of Virginia in affirming the conviction was contrary to this court's interpretation of the Federal Constitution—Amendments I and XIV.

The case is of simple origin and involves the constitutional right of not only the petitioner, Hansel Wallace, but indirectly the rights of fellow union members in their exercise of peaceful and lawful picketing activities.

The entire transcript is short and is attached as Appendix "A".

Wherefore, your petitioner prays that a writ of certiorari be issued by this court to the Supreme Court of Appeals for the Commonwealth of Virginia and the Corporation Court of Bristol, Virginia, directing those courts to certify and send to the this court for its review and determination a full and complete transcript of the record and proceedings in Commonwealth of Virginia v. Hansel Wallace, and that judgment of the Supreme Court of Appeals for the Commonwealth of Virginia be reversed by this court.

Respectfully submitted,

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By .....

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